

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

REM WRANSKY)	CASE NO.
c/o Herron Law Offices)	
5001 Mayfield Road, Suite 318)	JUDGE
Lyndhurst, Ohio 44124)	
)	
Plaintiff)	
)	
v.)	
)	
THE MUSICAL ARTS)	
ASSOCIATION)	
d/b/a The Cleveland Orchestra)	
11001 Euclid Avenue)	
Cleveland, Ohio 44106)	
)	
and)	
)	
BUSINESS ADMINISTRATORS &)	
CONSULTANTS, INC.)	
6331 East Livingstone Avenue)	
Reynoldsburg, Ohio 43068)	
)	
Defendants)	

COMPLAINT AND JURY DEMAND

Now comes the plaintiff, by and through counsel, and for her complaint against the defendants, avers and states as follows:

JURISDICTION

1. This Honorable court has jurisdiction over the claims in the within matter pursuant to 28 U.S.C. §1331.

VENUE

2. This Honorable Court has venue over the claims in the within matter pursuant to 28 U.S.C. §1391 in that some or all of plaintiff Rem Wransky's claims for relief arose in and within the Northern District of Ohio, and all defendants do business in the Northern District of Ohio.

PARTIES

3. During all times relevant hereto, plaintiff Rem Wransky is a transgender female who is employed by defendant The Musical Arts Association, d/b/a The Cleveland Orchestra. Plaintiff Rem Wransky obtained her health insurance through a health insurance plan funded by defendant The Musical Arts Association, d/b/a The Cleveland Orchestra and administered by defendant Business Administrators & Consultants, Inc.

4. During all times relevant hereto, defendant The Musical Arts Association, d/b/a The Cleveland Orchestra (hereinafter "The Cleveland Orchestra") is a non-profit corporation with its principal place of business located in the City of Cleveland, Cuyahoga County, State of Ohio and a recipient of federal funding.

5. During all times relevant hereto, defendant Business Administrators & Consultants, Inc., (hereinafter "BAC") is a corporation organized and existing under the laws of the State of Ohio with its principal place of business located in the City of Reynoldsburg, Franklin County, State of Ohio.

STATEMENT OF FACTS

6. The allegations set forth in Paragraphs 1 through 5 are incorporated as if fully rewritten herein.

7. Plaintiff Rem Wransky commenced her employment with defendant The Cleveland Orchestra in April of 2021, and since the commencement of her employment has received health insurance through defendant The Cleveland Orchestra.

8. At all times, plaintiff Rem Wransky's job performance has been satisfactory.

9. In August of 2020, prior to the commencement of her employment with defendant The Cleveland Orchestra, plaintiff Rem Wransky underwent gender affirmation surgery.

10. Since undergoing her gender affirmation surgery and through the present, plaintiff Rem Wransky has experienced complications from her original surgery that causes plaintiff Rem Wransky to experience continual pain and discomfort, and which will require additional medically necessary surgery to remedy.

11. Beginning on or about July 1, 2022, defendant The Cleveland Orchestra switched healthcare providers and became self-insured, contracting with defendant BAC to be its third-party administrator.

12. Plaintiff Rem Wransky elected to continue to receive her health care coverage through defendant The Cleveland Orchestra.

13. Plaintiff Rem Wransky, through her treating physicians, submitted a claim to defendants The Cleveland Orchestra and BAC for coverage for her surgery to remedy the complications she was experiencing from her prior gender affirmation surgery in accordance with policy requirements.

14. On or about July 14, 2022, defendant BAC denied plaintiff's request for coverage for said surgery on the grounds that the surgery was not medically necessary, with an option for plaintiff's treating physicians to engage in a "peer to peer" discussion with BAC's physician-reviewer to determine medical necessity.

15. Plaintiff Rem Wransky's treating physicians engaged in the "peer to peer" discussions with defendant BAC's physician-reviewer to determine medical necessity.

16. On or about July 20, 2022, following completion of the "peer to peer" review and review of the information submitted on behalf of plaintiff Rem Wransky, defendant BAC determined that plaintiff Rem Wransky's additional surgery met the policy requirements of medical necessity, but upheld the denial of coverage for said surgery on the basis of an exclusion in plaintiff Rem Wransky's health insurance policy with defendant The Cleveland Orchestra "for transsexual surgery or any treatment leading to or in connection with transsexual surgery."

17. In denying coverage to plaintiff Rem Wransky for her medically necessary surgery based upon the language cited in the preceding paragraph, defendants The Cleveland Orchestra and BAC have unlawfully discriminated against plaintiff Rem Wransky on the basis of sex.

18. As a direct and proximate result of the actions and inactions of defendants The Cleveland Orchestra and BAC outlined herein, plaintiff Rem Wransky has sustained economic and non-economic losses, including but not limited to having to personally cover the costs of her medically-necessary surgery, medication and required after-care treatment, in an amount to be determined at the trial of the within matter.

FIRST CLAIM FOR RELIEF

(Discrimination in Health Care On The Basis Of Sex – 42 U.S.C. 18116(a))

19. The allegations set forth in Paragraphs 1 through 18 are incorporated as if fully rewritten herein.

20. Section 1557 of the Patient Protection and Affordable Care Act ("ACA"), 42 U.S.C. 18116(a), prohibits discrimination on the basis of sex, including discrimination on the basis of sexual orientation or gender identity, in any health care program or activity that receives federal financial assistance.

21. Defendant The Cleveland Orchestra receives federal financial assistance and therefore is covered by the Section 1557 of the ACA.

22. Defendant BAC receives federal financial assistance and is a health program or activity, and therefore is covered by Section 1557 of the ACA.

23. Defendants The Cleveland Orchestra and BAC unlawfully and intentionally discriminated against plaintiff Rem Wransky on the basis of sex in denying her coverage for her medically necessary surgery on the basis of the exclusion from coverage “for transsexual surgery or any treatment program leading to or in conjunction with transsexual surgery.”

24. As a result of defendants The Cleveland Orchestra and BAC’s intentional and discriminatory denial of coverage, plaintiff Rem Wransky will be required to pay up front and out of pocket for her medically necessary surgery.

25. As a direct and proximate result of the actions and inactions of defendants The Cleveland Orchestra and BAC described herein, plaintiff Rem Wransky has sustained economic and non-economic losses in an amount to be determined at the trial of this action.

WHEREFORE, plaintiff Rem Wransky respectfully demands judgment against defendants the Cleveland Orchestra and BAC, jointly and/or severally, as follows:

- a. An order declaring that defendants The Cleveland Orchestra and BAC violated plaintiff Rem Wransky’s rights under Section 1557 of the ACA by virtue of their intentional discriminatory denial of coverage for plaintiff Rem Wransky’s medically necessary surgery on the basis of sex;
- b. An order permanently enjoining defendants The Cleveland Orchestra and BAC from implementing and enforcing their discriminatory policy of excluding from coverage;
- c. An award of compensatory damages in an amount to be determined at trial;
- d. An award of punitive damages in an amount to be determined at trial;
- e. An award of reasonable attorney’s fees and costs; and

- f. An award of such other legal and equitable relief as this Court deems just and reasonable.

Respectfully Submitted,

s/Mark P. Herron

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Attorney for Plaintiff

JURY DEMAND

Plaintiff demands a trial by jury on all claims so triable.

s/Mark P. Herron

Attorney for Plaintiff